

Anthony Clark Schwartz
Email: tonyschwartz.law@gmail.com
The Schwartz Law Firm
520 SW 6th Avenue, Suite 600
Portland, OR 97204
Tel: (503) 224-0678
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

CR No. 3:12-cr-00226-BR-1

PLAINTIFF,

v.

**DEFENDANT'S
TRIAL MEMORANDUM**

GERALD LEROY BARNES II,

DEFENDANT.

The defendant, Mr. Barnes, through counsel, Anthony C. Schwartz, files this trial memorandum.

1. BACKGROUND

On April 26, 2012, law enforcement agents executed a federal warrant at the house of Mr. Barnes. The agents found, among other things, about 14 firearms including a short-barreled shotgun. An ATF agent later determined that the short-barreled shotgun was not registered in the National Firearms Registration and Transfer Record to Mr. Barnes. The government charged Mr. Barnes with a single count of Unlawful Possession of a Short-barreled Shotgun under 26 U.S.C. § 5861(d).

2. TRIAL EXPECTATIONS

This is a simple case. The defense plans to call no witnesses other than, potentially, Mr. Barnes. The government may call 2-3 witnesses. The defense will not offer any exhibits. The government may offer 2-3 exhibits.

The only issue will be whether or not the government can prove the elements of the charged offense, which are:

- (1) the defendant knowingly possessed a firearm, to-wit: a weapon made from a Remington Wingmaster 870, 20 gauge shotgun, serial number S530610X, having an overall length of less than 26 inches and a barrel length of less than 18 inches, and
- (2) this Remington Wingmaster was not registered to the defendant in the National Firearms Registration and Transfer Record

In addition, to those two elements, the government will have to establish that Mr. Barnes knew of those features of the Remington Wingmaster that brought the firearm within the statute. See *Staples v. United States*, 511 U.S. 600, 619 (1994).

3. PRE-TRIAL DOCUMENTS

AUSA Kerin and defense counsel have agreed to certain parameters regarding the proposed evidence. As a result, the defense will not file any motions *in limine*.

4. LENGTH OF TRIAL

The trial including jury selection, deliberations, and verdict should last no longer than 1 and ½ days.

DATED this August 8, 2013

s/ Anthony C. Schwartz
Anthony C. Schwartz